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SEP 19 2006

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**FACSIMILE**

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<b>TO:</b>	Commissioner for Patents	<b>COMPANY:</b>	United States Patent & Trademark Office
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<b>FAX:</b>	571-273-8300	<b>PAGES:</b>	18 (including cover)
<b>PHONE:</b>			
U.S. Application Serial No. 10/788,587		<b>DATE:</b>	September 19, 2006
<b>RE:</b>	ATTORNEY DOCKET/REF. NO. R122 1020.3		
<b>ACCOUNTING NO.</b> 51939.0005.6			

Urgent       For Review       Please Comment       Please Reply       Please Recycle

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Please call the following number if the message you receive is incomplete or not legible: 404-879-2412

In re Application of: Otterlee, Timothy A.

**OFFICIAL**

Serial No.: 10/788,587

Filed: 02/27/2004

For: NESTABLE SHOPPING CART

Attached in connection with the above-identified patent application are the following:

- (1) Transmittal Form;
- (2) Fee Transmittal; and
- (3) Substitute Response to Office Action and Amendment.

SEP 19 2006

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL  
FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

17

Application Number	10/765,587
Filing Date	02/27/04
First Named Inventor	OTTERLEE, Timothy A.
Art Unit	3618
Examiner Name	Vaneman, Frank Bennett

Attorney Docket Number R122 1020,3

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Womble Carlyle Sandridge & Rice, PLLC		
Signature			
Printed name	Dana E. Stano		
Date	September 19, 2006	Reg. No.	50,750

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Sheila M. Gray	Date	September 19, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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SEP 19 2006

PTO/SB/17 (12-04v2)

Approved for use through 07/31/2006. OMB 0861-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2006 (H.R. 4818).

**FEE TRANSMITTAL  
For FY 2005** Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

\$0.00

Complete If Known

Application Number	10/788,587
Filing Date	02/27/04
First Named Inventor	OTTERLEE, Timothy A.
Examiner Name	Vanaman, Frank Bennett
Art Unit	3618
Attorney Docket No.	R122 1020.3

**METHOD OF PAYMENT (check all that apply)** Check  Credit Card  Money Order  None  Other (please identify): \_\_\_\_\_ Deposit Account Deposit Account Number: 09-0528 Deposit Account Name: Womble Carlyle et al.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

 Charge fee(s) indicated below  Charge fee(s) indicated below, except for the filing fee Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17  Credit any overpayments

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**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity	Fee (\$)	Small Entity	Fee (\$)	Small Entity	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES****Fee Description**

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Small Entity	Fee (\$)	Fee (\$)
- 20 or HP =	x	=		Fee (\$)	Fee (\$)	
HP = highest number of total claims paid for, if greater than 20.				50	25	
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	200	100	
- 3 or HP =	x	=		360	180	

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x		

**4. OTHER FEE(S)**

Non-English Specification. \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): \_\_\_\_\_

Fee Paid (\$)

SUBMITTED BY		Registration No. (Attorney/Agent)	Telephone
Signature	Dana E. Stano	50,750	(404) 879-2437
Name (Print/Type)	Dana E. Stano		Date September 19, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
OTTERLEE, Timothy A. )      Examiner: Vanaman, Frank Bennett  
Serial No.: 10/788,587 )      Art Unit: 3618  
Filed: February 27, 2004 )      Conf. No.: 6842  
For: NESTABLE SHOPPING )  
CART )

**SUBSTITUTE RESPONSE TO OFFICE ACTION AND**  
**AMENDMENT PURSUANT TO 37 C.F.R. § 1.111**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This paper is being filed in response to the Office Action mailed on September 13, 2006, and to replace the Response to Office Action and Amendment submitted on June 26, 2006 in response to the Office Action mailed on April 7, 2006. Reconsideration is requested in view of the following amendments and the remarks.

Amendments to the specification begin on page 2 of this paper.

Amendments to the claims begin on page 3 of this paper.

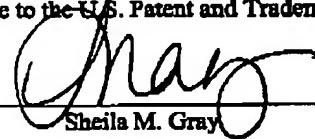
Remarks begin on page 9 of this paper.

Conclusion is on page 15 of this paper.

**CERTIFICATE OF FACSIMILE**

I hereby certify that this correspondence is being sent via facsimile to the U.S. Patent and Trademark Office at facsimile number 571-273-8300 on the date shown below.

September 19, 2006  
Date

  
Sheila M. Gray